

## REMARKS

In accordance with the foregoing, claims 12 and 29 are amended. No new matter is believed to be added. Claims 12-27, 29 and 30 are pending and under consideration.

### CLAIM REJECTIONS UNDER 35 U.S.C. §103

Claims 12-14 and 29 are rejected as allegedly being rendered obvious by U.S. Patent Application Publication No. 2003/0161343 to Ghosh (hereinafter "Ghosh") in view of U.S. Patent Application Publication No. 2009/0093243 to Lee et al. ("Lee").

Independent claim 12 is amended herewith to clarify that the method includes "taking measurements of transmission quality of the common channel for each of the subscriber stations and making the measurements available to the base station." None of the cited prior art alone and in combination renders obvious these features recited in claim 12.

The above-reproduced features provide the advantage that the controlling radio network controller may consider radio conditions for individual subscribers when allocating resources, thereby being able to more adequately fulfill the quality of service requirements.

The Office Action acknowledges that Ghosh does not anticipate or render obvious "transmitting from the base station a first message to a controlling radio network controller allocated to the base station when the measurements show that the transmission quality does not meet a first defined criterion." Ghosh also fails render obvious that measurements of transmission quality of the common channel for each of the subscriber stations are made available to the base station.

For example, in paragraph [0026] and FIG. 2 (which are cited in the Office Action), Ghosh discloses that the UE (i.e., subscriber station) sends a measurement report to an RNC via a source node B. However, the measurement report message includes queue size information and QoS *requirements* of the package accumulated in the UE, not information as to *actual* QoS and whether the QoS requirements are met. Furthermore, Ghosh does not suggest any measurements of the transmission quality of otherwise being made available to the Node B (i.e., the base station). The measurements are either sent to the RNC in a message via Node B or computed in Node B.

Therefore, a person of ordinary skill in the art seeking to improve resource allocation by measuring transmission quality by taking into account actual radio conditions for individual subscribers would not look to Ghosh's teachings as a starting point.

Contrary to the Office Action position, Applicants believe that Lee does not correct or compensate for the above-identified failure of Ghosh to render obvious the claimed method. In Lee, the node B internally measures radio environment or monitors status of user data transmission (see paragraph [0146] cited in the Office Action). If it is an end of an update period or a parameter indicating the state of a radio link exceeds a certain threshold value, the node B in Lee initiates updating of the HS-DPCCH related parameter. The node B sends the HSDPA related parameter value that is to be updated to the RNC.

Thus, similar to Ghosh, it is the node B itself in Lee performing the measurement of the radio environment. Lee does not teach or suggest taking measurements of the transmission quality on the common channel for each of the subscriber stations and then making the measurements for each of the subscriber stations available to the base station (node B).

To summarize, Ghosh and Lee, alone and in combination fail to render obvious making measurements of transmission quality of the common channel for each of the subscriber stations available to the base station, and THEN sending a first message to the controlling radio network controller from the base station. Both Ghosh and Lee use a similar measurement method acknowledged as prior art in the current application, where the base station informs the controlling radio network controller when it is determined that individual quality of service classes can no longer achieve the required and agreed quality of service parameters. The methods disclosed in Ghosh and Lee would thus not take account of measuring the radio conditions for individual subscriber stations and would not be able to achieve the above-described advantages associated with the claimed method.

Claims 13-27 are patentable at least by inheriting patentable features from independent claim 12 from which they depend.

Independent claim 29 is amended herewith in a manner similar to amended claim 12. In view of the above discussion of the prior art, amended independent claim 29 patentably distinguishes over the prior art at least by reciting "a base station sends a first message to the controlling radio network controller when a measured transmission quality made available to the base station of at least one of the plurality of subscriber stations exchanging data with the base station does not meet a defined criterion, the first message containing information about the transmission quality and about the at least one subscriber station."

Claims 30 patentably distinguishes over Ghosh and Lee at least by inheriting patentable features from independent claim 29 from which claim 30 depends.

Claims 15-27 and 30 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Ghosh in view of Lee, and further in view of U.S. Patent Application Publication No. 2005/0239460 to Kroth et al. ("Kroth").

Kroth does not correct or compensate for the above identified failure of Ghosh and Lee to render obvious all the features recited in amended independent claims 12 and 29. Therefore claims 15-27 and 30 patentably distinguish over Ghosh, Lee, and Kroth.

## CONCLUSION

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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